



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/168005

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 11, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Marathon County Department of Social Services in regard to Medical Assistance, a telephonic hearing was held on September 16, 2015, at Wausau, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective August 1, 2015, due to household income above the 100% MAGI income limit of \$2,367.50 for a group of five.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED], ESS

Marathon County Department of Social Services  
400 E. Thomas Street  
Wausau, WI 54403

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County who resides with her husband ([REDACTED]) and their three children.
2. The petitioner received BadgerCare (BC) Plus benefits for her household of five.

3. The agency determined during petitioner's June, 2015 review that petitioner's household's total countable income of \$2,494.20 was above the \$2,367.50 income limit for a household of five.
4. The county agency sent a June 30, 2015 notice to the petitioner stating that effective August 1, 2015 the BadgerCare (BC) Plus eligibility for petitioner and her husband would discontinue due to income above the 100% FPL of \$2,367.50 for a household of five per BadgerCare Plus Eligibility Handbook, 16.1.1, "Income Limits. The BC eligibility for the petitioner's three children remains open as of August 1, 2015.

### **DISCUSSION**

BadgerCare Plus is a Wisconsin variant of the MA program, for non-elderly, non-disabled Wisconsin residents. The program's nonfinancial eligibility standards were broadened effective April 1, 2014, to include adults who do not have minor children in their home. Wis. Stat. § 49.45(23); 2013 Wisconsin Act 116, § 29, for effective date; *BadgerCare Plus Eligibility Handbook (BCPEH)*, § 2.1, online at <http://www.emhandbooks.wisconsin.gov/bcplus/bcplus.htm> (viewed in March 2014). The petitioner meets the nonfinancial eligibility tests for the program.

**The petitioner must also pass an income test.** An eligible applicant cannot have adjusted gross income exceeding 100% of the federal poverty level (FPL). Wis. Stat. § 49.45(23)(a); *BCPEH*, § 16.1. The 100% FPL amount is \$2,367.50 monthly for a household of five in 2015. *Id.*, § 50.1.

During June, 2015, the Department correctly determined the petitioner's monthly household income to be \$2,494.20. The petitioner did not dispute the agency's determination of her household's earned and unearned income. During the September 16, 2015 hearing, petitioner basically stipulated that the agency's action to discontinue the BC eligibility for herself and her husband was correct due to income above the income limit. However, petitioner explained that she requested a hearing because she wanted to receive a full explanation of how the agency had calculated her household's income to be above the income eligibility limits for a group of five. The petitioner was unable to refute that her countable household income does exceed 100% FPL for a household of five persons. Accordingly, based upon the above, I must conclude that the county agency correctly discontinued the petitioner's BadgerCare Plus eligibility effective August 1, 2015, due to household income above the 100% MAGI income limit of \$2,367.50 for a group of five.

### **CONCLUSIONS OF LAW**

1. The petitioner's household income does exceed the relevant 100% MAGI FPL limit for BCP eligibility for a household of five.
2. The county agency correctly discontinued the BadgerCare Plus eligibility for petitioner and her husband effective August 1, 2015, due to household income above the 100% MAGI income limit of \$2,367.50 for a group of five. The petitioner's three children remained open for BC benefits as of August 1, 2015.

**THEREFORE, it is**

**ORDERED**

The petition for review herein be and the same is hereby Dismissed.

## REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

## APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 2nd day of November, 2015

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\sGary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on November 2, 2015.

Marathon County Department of Social Services  
Division of Health Care Access and Accountability